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Epic Games, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,

v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-CV-05640-YGR-TSH

**DECLARATION OF MICHAEL J. ZAKEN
IN SUPPORT OF EPIC GAMES, INC.'S
MOTION TO SHORTEN TIME**

Judge: Hon. Yvonne Gonzalez Rogers

1 I, Michael J. Zaken, declare as follows:

2 1. I am a Partner at Cravath, Swaine & Moore LLP, counsel to Epic Games, Inc.
3 (“Epic”) in the above-captioned actions. I am admitted to appear before this Court *pro hac vice*.

4 2. I submit this declaration in support of Epic’s Motion to Shorten a Party’s Time to
5 Respond Pursuant to Local Rule 6-3 (“Motion to Shorten”), dated May 16, 2025.

6 3. I have personal, first-hand knowledge of the facts set forth in this Declaration. If
7 called as a witness, I could and would competently testify to these facts under oath.

8 4. Concurrently with its Motion to Shorten, Epic also filed with the Court a Motion to
9 Enforce the Injunction (“Motion to Enforce”).

10 5. The Local Rules provide Apple with fourteen (14) days to respond to that motion.

11 6. On May 15, 2025, Apple indicated via letter correspondence that it would not
12 make any determination in Epic’s May 14, 2025 submission of its *Fortnite* app until the Ninth
13 Circuit makes a ruling on Apple’s pending motion for a partial stay of this Court’s April 30
14 Order.

15 7. As a result, *Fortnite* remains unavailable on the U.S. App Store.

16 8. Epic moves for an expedited briefing schedule because, in its view, Apple’s refusal
17 to consider Epic’s May 14, 2025, submission of its *Fortnite* app is in violation of this Court’s
18 Injunction.

19 9. On May 16, 2025, Epic indicated via email correspondence to Apple that it would
20 be filing its Motion to Enforce as well as its Motion to Shorten, and asked whether Apple would
21 stipulate to the expedited briefing schedule. Apple responded that it did not object to the
22 expedited briefing schedule.

23 10. Epic therefore seeks an order pursuant to Local Rule 6-3 to shorten the time for
24 Apple to respond to May 21, 2025; for Epic to reply to May 23, 2025; and for a hearing date to be
25 set to May 27, 2025.

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
2 and correct and that I executed this declaration on May 16, 2025 in New York, New York.

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4 /s/ Michael J. Zaken
5 Michael J. Zaken
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E-FILING ATTESTATION

I, Gary A. Bornstein, am the ECF User whose ID and password are being used to file this Declaration of Michael J. Zaken in Support of Epic's Motion to Shorten a Party's Time to Respond Pursuant to Local Rule 6-3. In compliance with Civil Local Rule 5-1(i), I hereby attest that concurrence in the filing of this document has been obtained from the signatory.

/s/ Gary A. Bornstein
Gary A. Bornstein